IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE K.C. BHANU
WRIT PETITION NO : 9788 of 2004

Between:
1.G.Krishnaiah, S/o Narayanappa,
Ananthapur, Ananthapur District.

..... PETITIONER

AND

1 The Depot Manager, A.P.S.R.T.C. Nandikotkur Depot, Kurnool District.
2 The Depot Manager, APSRTC Nandikotkur Depot, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or orders, direction more particularly one in the nature of Writ of Mandamus declaring the proceedings No.E1/(1)/93-NDK dated 31-8-1993 of the 1st respondent is illegal, arbitrary, unjustified, unsustainable, contrary to law and violative of Article 14 of the Constitution of India and set-aside the same and consequently direct the respondents to add one annual increments to the pay of the petitioner

Counsel for the Petitioner: MR.P.VARA PRASAD RAO

Counsel for the Respondents: MR Y.V.SWAMY

The Court Made the Following :

ORDER:

The first respondent issued a charge memo to the writ petitioner stating that he was absent to the duties unauthorisedly from 05.01.1993 to 10.01.1993 for which an explanation was submitted by the petitioner. Without considering the explanation of writ petitioner and without conducting any enquiry, the impugned proceedings No.E1/1(1)/93-NDK dated 31.08.1993 have been passed by the first respondents imposing a penalty of withholding annual increment for a period of one year with cumulative effect. Thereafter, the writ petitioner filed an appeal to the second respondent on 25.10.1993 and no orders have been passed so far. Hence, the present writ petition.

The learned counsel for the petitioner contended that without conducting any departmental enquiry, the first respondent ordered stoppage and withholding of annual increments of the petitioner for a period of one year with cumulative effect, which is a major penalty and the same has not been considered by the second respondent. Therefore, the petitioner prays to modify the punishment imposed on him since the incident took place in the year 1993.

The learned standing counsel appearing for respondents opposed the same and submitted that there are no grounds to interfere with the impugned proceedings.

For the unauthorized absence of the petitioner to the duties from 05.01.1993 to 10.01.1993, an explanation was called for by the first respondent for which the petitioner

gave an explanation. Admittedly, no enquiry was conducted.

It is not in dispute that the petitioner has been imposed with a penalty of withholding of one year increment with cumulative effect. It is incumbent on the part of the respondent to conduct an enquiry before imposing major penalty. The incident in question took place in the year 1993 i.e. 11 years ago. Therefore, it is not desirable at this stage to remit the case back to the respondents-corporation for conducting fresh enquiry. Even otherwise, the petitioner seeks for imposition of minor penalty.

Having regard to the peculiar facts and circumstances of the case and having regard to the balance of convenience, the punishment of penalty imposed on the petitioner by the second respondent can be modified deferring one annual increment without any cumulative effect.

With the above modification in the impugned proceedings, the writ petition is disposed of. In the circumstances of the case, there shall be no order as to costs.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

Copy to:

1 The Depot Manager, A.P.S.R.T.C. Nandikotkur Depot, Kurnool District.

2 The Depot Manager, APSRTC Nandikotkur Depot, Kurnool District.

3 2 C.D. copies.